



General Assembly

January Session, 2007

Raised Bill No. 1224

LCO No. 4400

04400_____ENV

Referred to Committee on Environment

Introduced by:
(ENV)

AN ACT CONCERNING LICENSED ENVIRONMENTAL PROFESSIONALS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (g) of section 22a-133v of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2007*):

4 (g) The board may conduct investigations concerning the conduct of
5 any licensed environmental professional. The commissioner may
6 conduct audits of any actions authorized by law to be performed by a
7 licensed environmental professional. The board shall authorize the
8 commissioner to: (1) revoke [or] the license of any environmental
9 professional; (2) suspend the license of any environmental
10 professional; (3) impose any other sanctions the board deems
11 appropriate including, but not limited to, the imposition of a civil
12 penalty pursuant to the commissioner's civil penalty regulations; or
13 [to] (4) deny an application for such licensure if the board, after
14 providing such professional with notice and an opportunity to be
15 heard concerning such revocation, suspension, other sanction or
16 denial, finds that such professional has submitted false or misleading

17 information to the board or has engaged in professional misconduct
18 including, without limitation, knowingly or recklessly making a false
19 verification of a remediation under section 22a-134a, as amended by
20 this act, or violating any provision of this section or regulations
21 adopted [hereunder] under the provisions of this section.

22 Sec. 2. Section 22a-133x of the general statutes is repealed and the
23 following is substituted in lieu thereof (*Effective October 1, 2007*):

24 (a) Except as provided in section 22a-133y, a political subdivision of
25 the state, an owner of an establishment, as defined in section 22a-134,
26 an owner of property identified on the inventory of hazardous waste
27 disposal sites maintained pursuant to section 22a-133c on October 1,
28 1995, or an owner of contaminated property located in an area for
29 which the groundwater classification is GA or GAA, may, at any time,
30 submit to the commissioner an environmental condition assessment
31 form for such real property owned by such political subdivision or
32 such owner and an initial review fee in accordance with subsection (e)
33 of this section. [Within] The owner or political subdivision shall use a
34 licensed environmental professional to verify the investigation and
35 remediation, unless not later than thirty days [of his] after the
36 commissioner's receipt of such form, the commissioner [shall notify]
37 notifies the owner or political subdivision, in writing, [as to whether or
38 not] that review and written approval of any remedial action at such
39 establishment or property by the commissioner will be required. The
40 commissioner shall not process any such form submitted pursuant to
41 this section unless such form is accompanied by the required initial
42 review fee.

43 (b) [If the commissioner notifies the owner that he will not formally
44 review and approve in writing the investigation and remediation of
45 the parcel, the] The owner or political subdivision shall, on or before
46 ninety days [of the receipt of such notice] after the submission of an
47 environmental condition assessment form, submit a statement of
48 proposed actions for investigating and remediating the parcel or a

49 release area, as defined in the regulations adopted by the
50 commissioner pursuant to section 22a-133k, and a schedule for
51 implementing such actions. The commissioner may require the owner
52 or political subdivision to submit to [him] the commissioner copies of
53 technical plans and reports related to investigation and remediation of
54 the parcel or release area, [and may notify the owner if the
55 commissioner determines] Notwithstanding any other provision of
56 this section, the commissioner may determine that the commissioner's
57 review and written approval is necessary at any time, and in such case
58 the commissioner shall notify the owner or political subdivision of the
59 need for the commissioner's review and written approval. The
60 commissioner shall require that the certifying party submit to [him] the
61 commissioner all technical plans and reports related to the
62 investigation and remediation of the parcel or release area if the
63 commissioner receives a written request from any person for such
64 information. The owner or political subdivision shall advise the
65 commissioner of any modifications to the proposed schedule. Upon
66 receipt of a verification by a licensed environmental professional that
67 the parcel or release area has been investigated in accordance with
68 prevailing standards and guidelines and remediated in accordance
69 with the remediation standards, the owner or political subdivision
70 shall submit a copy of such verification to the commissioner.

71 (c) If the commissioner notifies the owner or political subdivision
72 that [he] the commissioner will formally review and approve in
73 writing the investigation and remediation of the parcel, the owner or
74 political subdivision shall, on or before thirty days of the receipt of
75 such notice, or such later date as may be approved in writing by the
76 commissioner, submit for the commissioner's review and written
77 approval, a proposed schedule for: (1) Investigating and remediating
78 the parcel or release area; and (2) submitting to the commissioner
79 technical plans, technical reports and progress reports related to such
80 investigation and remediation. Upon the commissioner's approval of
81 such schedule, the owner or political subdivision shall, in accordance
82 with the approved schedule, submit technical plans, technical reports

83 and progress reports to the commissioner for his review and written
84 approval. The owner or political subdivision shall perform all actions
85 identified in the approved technical plans, technical reports and
86 progress reports in accordance with the approved schedule. The
87 commissioner may approve, in writing, any modification proposed in
88 writing by the owner or political subdivision to such schedule or
89 investigation and remediation and may notify the owner, in writing, if
90 [he] the commissioner determines that it is appropriate to discontinue
91 formal review and approval of the investigation or remediation.

92 (d) If, in accordance with the provisions of this section, the
93 commissioner has approved in writing or, as applicable, a licensed
94 environmental professional has verified, that the parcel or release area
95 has been remediated in accordance with the remediation standards,
96 such approval or verification may be used as the basis for submitting a
97 Form II pursuant to sections 22a-134 to 22a-134e, inclusive, as
98 amended by this act, provided there has been no additional discharge,
99 spillage, uncontrolled loss, seepage or filtration of hazardous waste at
100 or on the parcel subsequent to the date of the commissioner's approval
101 or verification by a licensed environmental professional.

102 (e) The fee for submitting an environmental condition assessment
103 form to the commissioner pursuant to this section shall be three
104 thousand dollars and shall be paid at the time the environmental
105 condition assessment form is submitted. Any fee paid pursuant to this
106 section shall be deducted from any fee required by subsection (m) or
107 (n) of section 22a-134e for the transfer of any parcel for which an
108 environmental condition assessment form has been submitted within
109 three years of such transfer.

110 (f) Nothing in this section shall be construed to affect or impair the
111 voluntary site remediation process provided for in section 22a-133y.

112 (g) Prior to commencement of remedial action taken under this
113 section, the [municipality or] owner or political subdivision shall (1)
114 publish notice of the remediation, in accordance with the schedule

115 submitted pursuant to this section, in a newspaper having a
116 substantial circulation in the area affected by the establishment, (2)
117 notify the director of health of the municipality where the parcel is
118 located of the remediation, and (3) either (A) erect and maintain for at
119 least thirty days in a legible condition a sign not less than six feet by
120 four feet on the parcel, which sign shall be clearly visible from the
121 public highway, and shall include the words "ENVIRONMENTAL
122 CLEAN-UP IN PROGRESS AT THIS SITE. FOR FURTHER
123 INFORMATION CONTACT:" and include a telephone number for an
124 office from which any interested person may obtain additional
125 information about the remediation, or (B) mail notice of the
126 remediation to each owner of record of property which abuts the
127 parcel, at the address of such property on the last-completed grand list
128 of the municipality where the parcel is located.

129 Sec. 3. Subdivision (19) of section 22a-134 of the general statutes is
130 repealed and the following is substituted in lieu thereof (*Effective*
131 *October 1, 2007*):

132 (19) "Verification" means the rendering of a written opinion on a
133 form prescribed by the commissioner by a licensed environmental
134 professional that an investigation of the parcel has been performed in
135 accordance with prevailing standards and guidelines and that the
136 establishment has been remediated in accordance with the remediation
137 standards.

138 Sec. 4. Section 22a-134a of the general statutes is repealed and the
139 following is substituted in lieu thereof (*Effective October 1, 2007*):

140 (a) No person shall transfer an establishment except in accordance
141 with the provisions of sections 22a-134 to 22a-134e, inclusive, as
142 amended by this act. Notwithstanding any provision of sections 22a-
143 134 to 22a-134e, inclusive, as amended by this act, a person appointed
144 by the Superior Court or any other court to sell, convey or partition
145 real property or a person appointed as a trustee in bankruptcy shall
146 not be deemed a party associated with the transfer of an establishment

147 and shall not be required to comply with the provisions of sections
148 22a-134 to 22a-134e, inclusive, as amended by this act.

149 (b) The commissioner may adopt regulations, in accordance with
150 the provisions of chapter 54, to implement the provisions of this
151 section.

152 (c) Prior to transferring an establishment, the transferor shall submit
153 to the transferee a complete Form I or a Form II and, no later than ten
154 days after the transfer, shall submit a copy of such Form I or Form II to
155 the commissioner. The commissioner shall notify the transferor no
156 later than ninety days after the submission of such Form I or Form II if
157 the commissioner deems the Form I or Form II incomplete. If the
158 transferor is unable to submit a Form I or a Form II to the transferee,
159 the transferor shall, prior to the transfer, submit a complete Form III or
160 Form IV prepared and signed by a party associated with the transfer to
161 the transferee and, no later than ten days after the transfer, shall
162 submit a copy of such Form III or Form IV to the commissioner. If no
163 other party associated with the transfer of an establishment prepares
164 and signs the proper form as a certifying party, the transferor shall
165 have the obligation for such preparation and signing.

166 (d) The certifying party to a Form I, Form II, Form III or Form IV
167 shall (1) upon receipt of a written request from the commissioner,
168 provide to the commissioner copies of all technical plans, reports and
169 other supporting documentation relating to the investigation of the
170 parcel or remediation of the establishment as specified in the
171 commissioner's written request, and (2) simultaneously submit with
172 the submission of a Form I, Form III or Form IV to the commissioner a
173 complete environmental condition assessment form and shall certify to
174 the commissioner, in writing, that the information contained in such
175 form is correct and accurate to the best of the certifying party's
176 knowledge and belief.

177 (e) ~~[No]~~ Not later than thirty days after receipt of a Form III or Form
178 IV, the commissioner shall notify the certifying party whether the form

179 is complete or incomplete. [Within] The certifying party shall use a
180 licensed environmental professional to verify the investigation and
181 remediation, unless not later than forty-five days [of] after receipt of a
182 complete Form III or IV [,] the commissioner [shall notify] notifies the
183 certifying party, in writing, [whether] that review and approval of the
184 remediation by the commissioner [will] shall be required, [, or whether
185 a licensed environmental professional may verify that the investigation
186 has been performed in accordance with prevailing standards and
187 guidelines and that the remediation has been performed in accordance
188 with the remediation standards.] Any person who submitted a Form
189 III to the commissioner prior to October 1, 1995, may submit an
190 environmental condition assessment form to the commissioner. The
191 commissioner shall, [within] not later than forty-five days [of] after
192 receipt of such form, notify the certifying party whether approval of
193 the remediation by the commissioner will be required or whether a
194 licensed environmental professional may verify that the investigation
195 was performed in accordance with prevailing standards and
196 guidelines and the remediation has been performed in accordance with
197 the remediation standards.

198 (f) In determining whether review and approval of the remediation
199 by the commissioner will be required, or whether a licensed
200 environmental professional may verify that the remediation has been
201 performed in accordance with the remediation standards, the
202 commissioner shall consider: (1) The potential risk to human health
203 and the environment posed by any discharge, spillage, uncontrolled
204 loss, seepage or filtration of hazardous waste or a hazardous substance
205 at the establishment; (2) the degree of environmental investigation at
206 the parcel; (3) the proximity of the establishment to significant natural
207 resources; (4) the character of the land uses surrounding the
208 establishment; (5) the complexity of the environmental condition of the
209 establishment; and (6) any other factor the commissioner deems
210 relevant.

211 (g) (1) [If the commissioner notifies] Except as provided in

212 subsection (h) of this section, the certifying party to a Form III or Form
213 IV [that a licensed environmental professional may verify the
214 remediation, such certifying party] shall, on or before [thirty] seventy-
215 five days [of] after the receipt of [such] the notice that such form is
216 complete or such later date as may be approved in writing by the
217 commissioner, submit a schedule for the investigation of the parcel
218 and remediation of the establishment. Such schedule shall, unless a
219 later date is specified in writing by the commissioner, provide that the
220 investigation shall be completed within two years of the date of receipt
221 of such notice and that remediation shall be initiated within three years
222 of the date of receipt of such notice. The schedule shall also include a
223 schedule for providing public notice of the remediation prior to the
224 initiation of such remediation in accordance with subsection (i) of this
225 section. [The commissioner] Not later than two years after the date of
226 the receipt of the notice that the form is complete, unless the
227 commissioner has specified a later day, in writing, the certifying party
228 shall submit to the commissioner documentation in a form prescribed
229 by the commissioner that the investigation has been completed. Not
230 later than three years after the date of the receipt of the notice that the
231 form is complete, unless the commissioner has specified a later day in
232 writing, the certifying party shall notify the commissioner in a form
233 prescribed by the commissioner, that the remediation has been
234 initiated. Notwithstanding any other provision of this section, the
235 commissioner may determine at any time that the commissioner's
236 review and written approval is necessary and in such case shall notify
237 [such] the certifying party [if the commissioner determines] that the
238 commissioner's review and written approval is necessary. Such
239 certifying party shall investigate the parcel and remediate the
240 establishment in accordance with the proposed schedule or the
241 schedule specified by the commissioner. When remediation of the
242 entire establishment is complete, the certifying party shall submit to
243 the commissioner a final verification by a licensed environmental
244 professional. Any such final verification may include and rely upon a
245 verification for a portion of the establishment submitted pursuant to

246 subdivision (2) of this subsection.

247 (2) If a certifying party completes the remediation for a portion of an
248 establishment, such party may submit a verification by a licensed
249 environmental professional for any such portion of an establishment.
250 The certifying party shall be deemed to have satisfied the requirements
251 of this subsection for that portion of the establishment covered by any
252 such verification. If any portion of an establishment for which a
253 verification is submitted pursuant to this subdivision is transferred,
254 conveyed or undergoes a change in ownership before remediation of
255 the entire establishment is complete that would not otherwise be
256 subject to the provisions of sections 22a-134 to 22a-134e, inclusive, as
257 amended by this act, then the certifying party shall provide notice to
258 the commissioner of such transfer, conveyance or change in ownership
259 not later than thirty days of any such transfer, conveyance or change in
260 ownership.

261 (h) (1) If the commissioner notifies the certifying party to a Form III
262 or Form IV that the commissioner's review and written approval of the
263 investigation of the parcel and remediation of the establishment is
264 required, such certifying party shall, on or before thirty days of the
265 receipt of such notice or such later date as may be approved in writing
266 by the commissioner, submit for the commissioner's review and
267 written approval a proposed schedule for: (A) Investigating the parcel
268 and remediating the establishment; (B) submitting to the commissioner
269 scopes of work, technical plans, technical reports and progress reports
270 related to such investigation and remediation; and (C) providing
271 public notice of the remediation prior to the initiation of such
272 remediation in accordance with subsection (i) of this section. Upon the
273 commissioner's approval of such schedule, such certifying party shall,
274 in accordance with the approved schedule, submit scopes of work,
275 technical plans, technical reports and progress reports to the
276 commissioner for the commissioner's review and written approval.
277 Such certifying party shall perform all actions identified in the
278 approved scopes of work, technical plans, technical reports and

279 progress reports in accordance with the approved schedule. The
280 commissioner may approve in writing any modification proposed in
281 writing by such certifying party to such schedule or investigation and
282 remediation. The commissioner may, at any time, notify such
283 certifying party in writing that the commissioner's review and written
284 approval is not required and that a licensed environmental
285 professional may verify that the remediation has been performed in
286 accordance with the remediation standards.

287 (2) A certifying party may complete the remediation of a portion of
288 an establishment and request that the commissioner determine that the
289 requirements of this subsection have been satisfied for any such
290 portion of the establishment. If the commissioner determines that any
291 such remediation is complete, the certifying party shall be deemed to
292 have satisfied the requirements of this subsection for any such portion
293 of an establishment. Any determination by the commissioner that
294 remediation at the entire establishment has been completed may
295 include and rely upon any determination made pursuant to this
296 subdivision that remediation is complete at a portion of an
297 establishment. If any portion of an establishment for which the
298 commissioner determines that remediation is complete pursuant to
299 this subdivision is transferred, conveyed or undergoes a change in
300 ownership before remediation of the entire establishment is complete
301 that would not otherwise be subject to the provisions of sections 22a-
302 134 to 22a-134e, inclusive, as amended by this act, then the certifying
303 party shall provide notice to the commissioner of such transfer,
304 conveyance or change in ownership not later than thirty days of any
305 such transfer, conveyance or change in ownership.

306 (i) The certifying party to a Form III or Form IV shall (1) publish
307 notice of the remediation, in accordance with the schedule submitted
308 pursuant to this section, in a newspaper having a substantial
309 circulation in the area affected by the establishment, (2) notify the
310 director of health of the municipality where the establishment is
311 located of the remediation, and (3) either (A) erect and maintain for at

312 least thirty days in a legible condition a sign not less than six feet by
313 four feet on the establishment, which sign shall be clearly visible from
314 the public highway, and shall include the words "ENVIRONMENTAL
315 CLEAN-UP IN PROGRESS AT THIS SITE. FOR FURTHER
316 INFORMATION CONTACT:" and include a telephone number for an
317 office from which any interested person may obtain additional
318 information about the remediation, or (B) mail notice of the
319 remediation to each owner of record of property which abuts the
320 parcel, at the address for such property on the last-completed grand
321 list of the municipality where the establishment is located.

322 (j) The commissioner may issue an order to any person who fails to
323 comply with any provision of sections 22a-134 to 22a-134e, inclusive,
324 as amended by this act, including, but not limited to, any person who
325 fails to file a form, or files an incomplete or incorrect form or to any
326 person who fails to carry out any activities to which that person agreed
327 in a Form III or Form IV. If no form is filed or if an incomplete or
328 incorrect form is filed for a transfer of an establishment, the
329 commissioner may issue an order to the transferor, the transferee, or
330 both, requiring a filing. The commissioner may also request that the
331 Attorney General bring an action in the superior court for the judicial
332 district of Hartford to enjoin any person who fails to comply with any
333 provision of sections 22a-134 to 22a-134e, inclusive, as amended by this
334 act, including, but not limited to, any person who fails to file a form,
335 improperly files a Form I, Form II, Form III or Form IV or the certifying
336 party to a Form III or Form IV to take any actions necessary to prevent
337 or abate any pollution at, or emanating from, the subject establishment.
338 Any person to whom such an order is issued may appeal such order in
339 accordance with the procedures set forth in sections 22a-436 and 22a-
340 437.

341 (k) Notwithstanding the exemptions provided in [subsection (a) of
342 section 22a-134] section 22a-134a, as amended by this act, nothing
343 contained in sections 22a-134 to 22a-134e, inclusive, as amended by
344 this act, shall be construed as creating an innocent landowner defense

345 for purposes of section 22a-452d.

346 (l) Notwithstanding any other provisions of this section, no person
 347 shall be required to comply with the provisions of sections 22a-134 to
 348 22a-134e, inclusive, as amended by this act, when transferring real
 349 property (1) (A) for which a Form I or Form II has been filed for the
 350 transfer of the parcel on or after October 1, 1995, or (B) for which parcel
 351 a Form III or Form IV has been filed and which has been remediated
 352 and such remediation has been approved in writing by the
 353 commissioner or has been verified in writing in accordance with this
 354 section by a licensed environmental professional that an investigation
 355 has been performed in accordance with prevailing standards and
 356 guidelines and that the remediation has been performed in accordance
 357 with the remediation standards, and (2) at which no activities
 358 described in subdivision (3) of section 22a-134 have been conducted
 359 since the date of such approval or verification or the date on which the
 360 Form I or Form II was filed.

361 (m) Failure of the commissioner to notify any party in accordance
 362 with the provisions of this section in no way limits the ability of the
 363 commissioner to enforce the provisions of sections 22a-134 to 22a-134e,
 364 inclusive, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2007	22a-133v(g)
Sec. 2	October 1, 2007	22a-133x
Sec. 3	October 1, 2007	22a-134(19)
Sec. 4	October 1, 2007	22a-134a

Statement of Purpose:

To authorize sanctions other than revocation or suspension of a licensed environmental professional (LEP) license, to dispense with the requirement that the commissioner respond in writing when delegating authority for site remediation to a LEP, to require verification that the investigation was done in accordance with

prevailing standards and to require that LEP verification be done on a form prescribed by the commissioner.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]